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dence—Sufficiency.—Evidence held to show that defendant's acts in caring for decedent were done pursuant to decedent's parol agreement to give her his property, within the rule governing enforcement of parol agreements to sell land.

[Ed. Note.—For other cases, see *Frauds, Statute of*, Cent. Dig. §§ 287, 289; Dec. Dig. § 129.*]

4. Frauds, Statute of (§ 129*)—Parol Agreement to Convey—Equities.—Evidence held to show that decedent's parol agreement to give his property to his sister in consideration of his care had been so far executed by her that a refusal of full execution would operate a fraud upon her.

[Ed. Note.—For other cases, see *Frauds, Statute of*, Cent. Dig. §§ 287, 289; Dec. Dig. § 129.*]

CHESAPEAKE & O. RY. CO. *v.* WILLIAMS.

Nov. 19, 1908.

[62 S. E. 796.]

1. Appeal and Error (§ 999*)—Verdict—Conclusiveness.—The jury being the judges of the weight and credibility of the evidence, the Supreme Court of Appeals will not disturb a verdict unless satisfied that the evidence is plainly insufficient to sustain it.

[Ed. Note.—For other cases, see *Appeal and Error*, Cent. Dig. § 3912; Dec. Dig. § 999.*]

2. Appeal and Error (§ 1002*)—Verdict—Conclusiveness.—Where, on a question of negligence, the evidence is such that reasonable men may fairly differ as to whether there was such negligence or not, the verdict will not be disturbed by the Supreme Court of Appeals.

[Ed. Note.—For other cases, see *Appeal and Error*, Cent. Dig. §§ 3935-3937; Dec. Dig. § 1002.*]

HOT SPRINGS LUMBER & MFG. CO., Inc. *v.* STERRETT.

Nov. 19, 1908.

[62 S. E. 797.]

1. Forcible Entry and Detainer (§ 8*)—Right of Action—Possession.—Color of title without possession is insufficient to sustain an action of unlawful detainer.

[Ed. Note.—For other cases, see *Forcible Entry and Detainer*, Cent. Dig. § 35; Dec. Dig. § 8.*]

2. Trial (§ 156*)—Questions of Law and Fact—Demurrer to Evidence.—Where plaintiff demurred to the evidence, in which demurrer

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.

defendant was required to join, conflicting evidence of the demurrant must be rejected.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 354-356; Dec. Dig. § 156.*]

3. Adverse Possession (§ 103*)—Color of Title—Severance of Boundary.—The rule that a grant from the commonwealth invests the senior patentee with constructive seisin of all land included in the grant until disturbed by actual entry by an adverse claimant, and is then only affected to the extent of dispossession, does not apply to the case of a junior patentee or claimant, where the contiguity of the original boundary had been severed anterior to the acquisition of title or color of title under which he claims, in which case, as to the junior claimant who does not connect his title with that of the original patentee, there is no such contiguity of seisin with respect to the dissevered tracts as would render actual possession of one constructive possession of the other.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 590-594; Dec. Dig. § 103.*]

BUENA VISTA EXTRACT CO. *v.* HICKMAN.

Nov. 19, 1908.

[62 S. E. 804.]

1. Appeal and Error (§ 511*)—Bill of Exceptions—Settlement—Signing—Time Prescribed.—Where bills of exceptions in the record purport to have been signed, sealed, enrolled, and made a part of the record, with the clerk's certificate, dated November 26th, "that the foregoing is a true transcript of the record," and the record shows that the court was in session as late as October 28th, this shows that the bills of exceptions were signed within 30 days after the end of the term at which the exceptions were noted, as provided by Acts 1908, p. 336, c. 225.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 2330; Dec. Dig. § 511.*]

2. Appeal and Error (§ 511*)—Bill of Exceptions—Settlement—Signing—Time Prescribed.—Under Acts 1908, p. 336, c. 225, allowing bills of exceptions to be signed either in term time or vacation, the correct practice demands that a bill of exceptions not signed during the term should show that it was signed within 30 days after the end of the term, or at such other time as the parties, by consent entered of record, agreed on.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 2330; Dec. Dig. § 511.*]

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.